

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7637

BILL NUMBER: HB 1487

DATE PREPARED: Feb 2, 1999

BILL AMENDED: Feb 1, 1999

SUBJECT: Wage discrimination.

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FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides that an employer may not discriminate against an employee on the basis of sex, race, or national origin by paying wages at a rate less than to other employees of another sex, race, or national origin.

The Department of Labor is required to adopt rules to implement the chapter, including specifying the criteria for determining whether a job is dominated by employees of one sex, a particular race, or a particular national origin.

This bill requires an employer to keep records of wages paid to employees and to document wages paid to employees and support the method, system, calculations, and bases used to establish, adjust, and determine the wage rates paid to its employees. It also requires an employer to provide to the employee upon commencement of employment and at least annually thereafter, a statement of the job title, wage rate, and how the wage is calculated.

An individual claiming discrimination is allowed to file a complaint with the Civil Rights Commission. This bill allows an individual to file a civil action for violation of the requirement to be furnished an annual statement of wages.

This bill allows the Department of Labor to file a civil action against an employer for a violation of the record keeping requirements. A court is allowed to award reasonable compensatory and punitive damages if appropriate, any penalties awarded by the Department of Labor, reasonable attorney's fees, expert witness fees if appropriate, and costs of the action. It provides that if the court makes a ruling that if no substantial violation of underlying law has been found, and the violation is the initial violation of this chapter, the court may not award any damages or any penalties to the prevailing party.

Effective Date: Upon passage.

Explanation of State Expenditures: (Revised) This bill requires the Department of Labor (DOL) to adopt rules to implement the provisions of this bill. The bill provides that the rules must include specifications of the criteria for determining whether a job is dominated by employees of one sex, a particular race, or a particular national origin. The rules are also to specify a time frame for retention of records by the employer and must provide for the protection of the confidentiality of employees and must require that the reports not include the names of employees or other identifying information. The adoption of rules can be done within the existing budget of the DOL and no additional state General Fund appropriation is needed.

This bill requires an employer, with 6 or more employees, to submit records to the DOL. The records would contain information on the wages paid to employees as well as information to support the method, system, calculations, and bases used to establish, adjust, and determine the wage rates paid to its employees. It is estimated that this bill will impact 150,000 businesses in Indiana. This bill will also impact the State. It is estimated that the DOL will need 9 employees to implement the provisions of this bill. The estimated costs (includes salaries and fringe benefits) of the 9 employees is \$229,235 in FY 2000 and \$236,657 in FY 2001. The December 31, 1998, manning table shows that DOL has 147 authorized positions of which 19 positions are vacant.

Due to the delicate nature of the records, it is assumed that an isolated and secured database would have be maintained. The following equipment would be required: a net server - \$20,000; 8 PC workstations - \$9,600 (8 x \$1,200); and a scanner with character recognition - \$40,000; total estimated cost for equipment is \$96,600 (\$20,000 + \$9,600 + \$40,000). There would also be the cost of software at an estimated cost of \$30,000. If the records are to be transmitted electronically, a website would have to be developed for an estimated cost of \$4,000. The total cost of software and website development is \$34,000.

The estimated total amount for DOL to implement the provisions of this bill is \$359,835 (includes salaries, fringe benefits and initial start-up costs) in FY 2000 and \$236,657 in FY 2001.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

This bill requires an employer to provide to each employee upon commencement of employment and each year after, a written statement informing the employee of the job title, wage rate, and how the wage is calculated. There will be some administrative costs to the Department of Personnel for the generation and distribution of the written statement. This bill also requires the Department of Personnel to preserve records that document the wages paid to employees and support the method, system, calculations, and bases used to establish, adjust, and determine the wage rate paid to state employees. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Current statute (IC 22-9-1-6) provides that an aggrieved individual may file a complaint with the Civil Rights Commission if the individual alleges a discriminatory practice on the basis of sex, race, or national origin.

In a civil action, if the court finds against the employer, the employee or the Department of Labor shall be awarded reasonable compensatory and punitive damages, if appropriate, any penalties awarded by the

Department of Labor, attorney's fees, expert witness fees if appropriate, and costs of the action. However, if the court finds against the employer for a violation but within its ruling makes a finding that: (1) no substantive violation of underlying law has been found; and (2) the violation is the initial violation of the provisions of the bill by the employer; the court may not award any damages or any penalties to the prevailing party. The fiscal impact of this provision to the State is indeterminable. The fiscal impact would be dependent on a state employee filing a civil action against a state agency (as an employer) and a court ruling against or in favor of the state agency.

Explanation of State Revenues: (Revised) This bill allows the Department of Labor to file a civil action in a circuit or superior court having jurisdiction in the county where the alleged violation occurred. If the court finds against an employer, the employee or the Department of Labor shall be awarded reasonable compensatory and punitive damages, if appropriate, any penalties of any type under provisions of the bill, attorney's fees, expert witness fees if appropriate, and costs of the action. However, if the court finds against the employer for a violation but within its ruling makes a finding that: (1) no substantive violation of underlying law has been found; and (2) the violation is the initial violation of the provisions of the bill by the employer; the court may not award any damages or any penalties to the prevailing party. The fiscal impact of this provision is indeterminable.

Explanation of Local Expenditures: This bill also impacts counties, cities, towns and townships that have 6 or more employees. The fiscal impact of the provisions of this bill are indeterminable.

Explanation of Local Revenues:

State Agencies Affected: Department of Labor; Department of Personnel; Civil Rights Commission.

Local Agencies Affected: Counties, cities, towns and townships that have 6 or more employees.

Information Sources: Pete Rimsans, Department of Labor, (317) 232-2682. Keith Beesley, Department of Personnel, (317) 2332-3062.